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FTR

Raised Bill 5143  
Public Hearing: 2-21-12

TO: MEMBERS OF THE INSURANCE AND REAL ESTATE COMMITTEE  
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)  
DATE: FEBRUARY 21, 2012

**RE: OPPOSITION TO SECTION 2 OF RAISED BILL 5143 – AN ACT CONCERNING  
INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN  
FOOD ESTABLISHMENTS.**

The CTLA opposes the expansion of immunity found in Section 2 of raised bill 5143, and respectfully contends that the section should be removed.

This proposal attempts to expand the immunity in C.G.S. 52-557l provided to people who donate food for use or distribution by a nonprofit. This would expand that immunity to any class III or IV food establishment that donates perishable food to temporary shelters.

Any expansion of this immunity provision is strongly opposed by the CTLA.

The CTLA feels strongly that broad expansions of immunity such as this are against public policy, as they throw the net too wide, possibly barring the courtroom doors to citizens that may have legitimate causes of action and who were never intended to be covered.

C.G.S. 51-557l is a narrowly drafted immunity provision which deprives very few citizens of their rights to pursue legal action against people who donate food and only when those providers are acting in tandem with a qualified nonprofit organization or corporation whose mission is to safely distribute such donations. This bill would deprive many citizens of their right to pursue legal action, even if they were not the ones the food providers were intending to help! The CTLA feels the expansions sought in this proposal far overshoot the mark of the original intention of the existing law.

**WE URGE YOU TO DEFEAT SECTION 2 OF RAISED BILL 5143. Thank you.**

## **Immunity: A Shield for Negligent Conduct**

Immunity is the equivalent of "special dispensation" or a permanent "stay out of court" card for wrongdoers. It gives them the power to act negligently without regard to public safety or health, with no fear of accountability. The growing push for immunity via legislation represents a major threat to our system of civil justice and any concept of accountability. Below are reasons to stop the spread of the dreaded immunity virus.

1. **Immunity undermines the judicial branch as a pillar of democracy.** Access to the courts and trial by jury are recognized as fundamental rights in our society. But immunity simply slams shut the courthouse door. While a judge and jury now determine the relative merits of lawsuits, immunity means no judge could make a ruling on whether a case has merit and should move forward. Moreover, no jury could decide on the facts of the case. The case would be abruptly and entirely closed to any legal action for all time.
2. **Creation of a statutory immunity is the single most draconian step the Legislature can take to address a liability issue.** Only important public policy considerations can ever justify a grant of immunity, because immunity shields negligent conduct. Clearly, the exalted status of immunity ought to be reserved for very extraordinary circumstances. But powerful interests, seeking special privileges that do not hold them accountable for their actions, now almost routinely seek legal immunity for their actions.
3. **Facts don't matter.** Immunity utterly ignores the facts or the circumstances of improper or unsafe behavior. The specific facts of a person or corporation's conduct do not matter. Immunity provides blanket protection from any civil action no matter how egregious the conduct.
4. **Undemonstrated need.** Pleas for the status of legal immunity blanketing whole industries or categories of government activity are increasing. Yet without even bothering to demonstrate a specific and urgent need, these lobbies are simply trying to ride the bandwagon of myths and phony anecdotes now being used against the civil justice system. But mere rhetoric without any reinforcing data and substantiating arguments should not be the basis for radically weakening our legal system.
5. **Discouraging the search for safer practices:** Immunity removes a key incentive for research and development of methods and products that better protect the public's safety and health.
6. **A license for corporate and personal irresponsibility:** A legislative imposition of legal immunity for individuals or corporations provides them with permanent protection against accountability to the public. Doesn't this fundamentally clash with our widely shared values of individual responsibility and good corporate citizenship?
7. **Victims' rights vanish:** Our society has increasingly come to understand the importance of recognizing victims' rights and the lasting impact victims may suffer as a result of wrongdoing and carelessness. Yet immunity shockingly gives wrongdoers a free pass from defending their case in court, while victims would have no legal recourse at all. This shifts the burden from wrongdoers to the innocent injured party. Wrongdoers are immunized yet there is no way to immunize the victims from the harm they suffered.